UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,265	07/06/2001	Kazuhiro Yabuta	JP920000193US1	7588

36736 7590 04/07/2009
DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER	
FADOK, MARK A	

ART UNIT	PAPER NUMBER
3625	

NOTIFICATION DATE	DELIVERY MODE
04/07/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeeiplaw.com

Office Action Summary	Application No.	Applicant(s)	
	09/900,265	YABUTA ET AL.	
	Examiner	Art Unit	
	MARK FADOK	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *7/24/2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date. _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The examiner is in receipt of applicant's response to office action mailed 5/22/2008, which was received 7/24/2008. Acknowledgement is made to the amendment to claims 6 and 16. Applicant's amendment and remarks have been carefully considered but were not found to be persuasive, therefore the previous rejection modified as necessitated by amendment follows:

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6,7,8,9,16 and 17 are directed to non-statutory subject matter. Based on Supreme Court precedence see Diamond v Diehr 450 US 175,184 (1981); Parker v. Flook, 437 US 584,588,n. 9 (1978); Gottschalk v Benson, 409 US 63, 70 (1972); Cochtane v Deener, 94 US 780, 787-88 (1876) a 101 process must (1) be tied to another statutory class (such as an apparatus) or transform underlying subject mater (such as an article or materials) to a different state or thing. Since neither of these requirements is met by the claim the claim is rejected as being directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-9,16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox (US 6,421,781) in view of Appellant's Admitted Prior Art (APA).

Regarding claim 6, Fox discloses a commodity purchasing method through a network, comprising the steps of:

receiving a connection request from a device (FIG 2);

determining whether the connection request includes an identifier (FIG 3),

wherein the identifier corresponds to an identification code of a cellular phone (FIG 3) and

wherein the identifier identifies that the connection request is-from a cellular phone (FIG 3, item 302);

in response to determining that the connection request includes the identifier, performing the following steps;

storing the identifier and user status information associated with the identifier in a database contained in a system for receiving the connection request (FIG 3); and

executing session control using the identifier and the user status information (col 2, lines 23-65);

As Observed by the Board in Appeal 2007-1930:

"Fox discloses a server, such as device 202, which provides information accessible to other computing devices on the Internet 104 (Fox, col.5, lines 27-29). Fox discloses that other such computing devices connected to the Internet can be desktop personal computers (Fox, col. 3, line 55). It would appear that the server 202 provides information accessible to both computers and mobile devices, and thus receives connection requests from both types of devices.

APA describes using history information, i.e., a cookie, to effect session control where the connection request involved is not from a mobile device (instead, a computer) as required by claims 6 and 16. (Specification 3:5-9)

As to the limitation in claims 6 and 16 of "determining whether the connection request includes an identifier, wherein the identifier corresponds to an identification

code of a cellular phone and wherein the identifier identifies that the connection request is from a cellular phone," Fox discloses:

Referring to the table in FIG. 3, a subscriber ID list 302 maintains a list of subscriber IDs of the mobile devices... " (Fox col. 6, ii. 29-30) The URLs representing the information subscribed to by the user are grouped and maintained in URL table 306. It can be appreciated that subscriber ID list 302 generally maintains a plurality Of subscriber IDs, each corresponding to one mobile device... (Fox, col. 6, 11. 43-49).

Fox would appear to disclose determining an identifier (ID) associated with a mobile device as required by claims 6 and 16 because, in Fox, the IDs in list 302 are grouped together as mobile devices, and any connection request using an ID from this group (302) would be known or identified by the system as being associated with a mobile device based on the group classification. "

Accordingly, it would have been obvious to one of ordinary skill in the art to have provided the combination of Fox and APA. All of the recited steps are shown by the combination of Fox and APA and there is no evidence of unpredictable results. Under these circumstances, " [t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1739 (2007)."

Fox teaches determining if an identifier is present in the request and if there is no identifier, determining if there is some other string from the notification request that can serve as the identifier (col 10, lines 40-47). As stated above, APA describes using history information, i.e., a cookie, to effect session control where the

connection request involved is not from a mobile device (instead, a computer) as required by claims 6 and 16. (Specification 3:5-9). It would have been obvious to a person having ordinary skill in the art to use a cookie provided with the notification to effect session control if an identifier was not provided indicating that the call is from a cellular phone, because the use of cookies to establish identity of a user was an efficient manner of authentication commonly used by programmers and would have therefore been obvious to try as an option when searching for some means of identification in the request.

Regarding claim 7

Fox teaches executing the connection request using the appropriate session control (col 4); receiving a result from the execution of the connection request; and returning the result to the device (FIG 2).

Regarding claim 8

Fox teaches wherein the network comprises a first network for communicating with the device and a second network for communicating with the cellular phone (FIG 2, Landnet, Airnet) and the method further comprises a step of sending the connection request to the cellular phone through the second network (FIG 2).

Regarding claim 9

Fox teaches the step of adding the identification code corresponding to the identifier to said connection request sent to the cellular phone (FIG 3).

Regarding claim 16

Fox discloses commodity purchasing method through a network, comprising the steps of:

receiving a connection request from a device; determining whether the connection request includes an identifier,

wherein the identifier corresponds to an identification code of a cellular phone and wherein the identifier identifies that the connection request is from a cellular phone; and

in response to determining that the connection request does not include the identifier, executing session control using history information that is communicated between a system and the device (see discussion of claims 6-9 above).

Regarding claim 17

Fox teaches executing the connection request using the session control; receiving a result from the execution of the connection request; and returning the result to the device (see discussion of claim 7).

Response to Arguments

Applicant's arguments with respect to claims 6,7,8,9,16 and 17 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM**.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300 [Official communications; including After Final communications labeled "Box AF"]

For general questions the receptionist can be reached at 571.272.3600

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Mark Fadok/
Primary Examiner, Art Unit 3625